



General Assembly

Substitute Bill No. 5130

February Session, 2012

* ____HB05130ENV__032612____ *

AN ACT CONCERNING THE DAM SAFETY PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-401 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 All dams, dikes, reservoirs and other similar structures, with their
4 appurtenances, without exception and without further definition or
5 enumeration herein, which, by breaking away or otherwise, might
6 endanger life or property, shall be subject to the jurisdiction conferred
7 by this chapter. The Commissioner of Energy and Environmental
8 Protection shall formulate all rules, definitions and regulations
9 necessary to carry out the provisions of this chapter and not
10 inconsistent therewith. The commissioner or his authorized
11 representatives may enter upon private property to make such
12 investigations and gather such data concerning dams, watersheds,
13 sites, structures and general conditions as may be necessary in the
14 public interest for a proper inspection, review and study of the design
15 and construction of such structures and of the environmental impact of
16 such structures on the inland wetlands of the state. The commissioner
17 may, when necessary, employ or make such agreements with
18 geologists, other engineers, expert consultants and such assistants as
19 may be reasonably necessary to carry out the provisions of this
20 chapter. [The owner of any dam, dike or similar structure under the

21 jurisdiction conferred by this chapter shall notify the commissioner, by
22 registered or certified mail return receipt requested, of the transfer of
23 ownership of any such dam, dike or similar structure not later than ten
24 days after the date of such transfer.]

25 Sec. 2. Subsection (b) of section 22a-403 of the general statutes is
26 repealed and the following is substituted in lieu thereof (*Effective*
27 *October 1, 2012*):

28 (b) The commissioner or his representative, engineer or consultant
29 shall determine the impact of the construction work on the
30 environment, on the safety of persons and property and on the tidal
31 wetlands and inland wetlands and watercourses of the state in
32 accordance with the provisions of sections [22a-36] 22a-28 to 22a-45,
33 inclusive, and shall further determine the need for a fishway in
34 accordance with the provisions of section 26-136, and shall examine the
35 documents and inspect the site, and, upon approval thereof, the
36 commissioner shall issue a permit authorizing the proposed
37 construction work under such conditions as the commissioner may
38 direct. The commissioner shall send a copy of the permit to the town
39 clerk in any municipality in which the structure is located or any
40 municipality which will be affected by the structure. An applicant for a
41 permit issued under this section to alter, rebuild, repair or remove an
42 existing dam shall not be required to obtain a permit under sections
43 [22a-36] 22a-28 to 22a-45a, inclusive, or section 22a-342, 22a-361 or 22a-
44 368. An applicant for a permit issued under this section to construct a
45 new dam shall not be required to obtain a permit under sections [22a-
46 36] 22a-28 to 22a-45a, inclusive, for such construction. An applicant for
47 a dam safety permit shall not be required to obtain approval of a
48 certification under section 25-68d.

49 Sec. 3. Section 22a-404 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2012*):

51 The [commissioner or his representative] dam owner or his or her
52 representative supervising the work on any dam or other like structure

53 subject to the commissioner's jurisdiction pursuant to this chapter shall
54 [inspect the work or cause it] cause the work to be inspected by a
55 registered professional engineer licensed in the state of Connecticut to
56 the extent necessary to determine whether the structure will be safe
57 and secure. [The] Not later than thirty days after the date the work is
58 completed, the dam owner shall submit to the commissioner a sworn
59 statement from the engineer who completed such inspection. Such
60 sworn statement shall (1) attest that such engineer inspected the work
61 and determined the dam or like structure to be safe within the
62 parameters of the design of such dam or like structure, (2) attest that
63 all appurtenances to such dam or like structure were built, repaired,
64 altered or removed in conformance with plans, specifications and
65 drawings approved by the commissioner pursuant to a permit for
66 construction or an order issued pursuant to section 22a-402, and (3)
67 bear the engineer's professional seal. For a high or significant hazard
68 dam, or if the commissioner determines a sensitive ecological
69 condition exists, the commissioner may [, when in his judgment
70 circumstances warrant,] place a competent inspector on the work, and
71 the compensation for such inspector shall be shared equally by the
72 state and by the owner. When the work has been completed to the
73 satisfaction of the commissioner, the owner shall file with the
74 commissioner plans and descriptions of the work as actually
75 constructed, together with any other pertinent data.

76 Sec. 4. Section 22a-409 of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective October 1, 2012*):

78 (a) The commissioner shall cause a survey and maps to be made of
79 each town showing the location of any dams or similar structures
80 within such town, and shall file a copy of such map with the town
81 clerk. On and after October 1, 2007, the owner of real property where a
82 high hazard or significant hazard dam is located shall cause to be
83 recorded on the land records in the municipality where the property is
84 located a document that identifies the existence of the dam and
85 whether the dam is categorized as a high hazard dam or a significant
86 hazard dam. The commissioner shall publish a standardized form to

87 be used for such purposes.

88 (b) The owner of any dam or similar structure not already registered
89 shall register on or before [July 1, 1984] October 1, 2014, with the
90 Commissioner of Energy and Environmental Protection on a form
91 prescribed by [him] the commissioner, the location and dimensions of
92 such dam or structure and such other information as the commissioner
93 may require. The fee for registration shall be as follows: (1) Dams or
94 similar structures five feet or more in height but less than fifteen feet,
95 fifty dollars; (2) dams or similar structures fifteen feet or more in
96 height but less than twenty-five feet, one hundred dollars; and (3)
97 dams or similar structures twenty-five feet or more in height, two
98 hundred dollars. Dams or similar structures less than five feet in
99 height shall be registered without fee. As used in this subsection,
100 "height" means the vertical distance from the crest of a dam or similar
101 structure to the downstream toe of such dam or similar structure. The
102 owner of any dam or similar structure shall notify the commissioner
103 by registered or certified mail, return receipt requested, of a transfer of
104 ownership of such dam or similar structure not later than ten days
105 after the date of such transfer.

106 (c) The owner of any dam or similar structure registered pursuant to
107 subsection (b) of this section shall cause such structure to be inspected
108 in accordance with regulations adopted pursuant to this subsection by
109 a registered professional engineer licensed in the state of Connecticut
110 and shall submit the results of such inspection to the commissioner on
111 a form prescribed by him or her. The commissioner shall periodically
112 inspect dams registered pursuant to subsection (b) of this section for
113 quality assurance when an owner fails to undertake a regularly
114 scheduled inspection and as necessary after a flood event. The fee for
115 any such inspection shall be six hundred sixty dollars until such time
116 as regulations are adopted concerning such inspection fees. Any dam
117 which impounds less than three acre-feet of water or any dam which
118 the commissioner finds has a potential for negligible damage in the
119 event of a failure, after an initial inspection, shall be exempt from the
120 provisions of this subsection except upon determination by the

121 commissioner that such dam poses a unique hazard. The
122 commissioner shall adopt regulations in accordance with the
123 provisions of chapter 54 establishing (1) a schedule for the frequency of
124 and procedures for inspection of dams, (2) the inspection fees for
125 [regularly scheduled] inspections undertaken by the department,
126 sufficient to cover the reasonable cost of such inspections, (3)
127 procedures for registration and criteria for waiver of registration and
128 inspection fees, and (4) criteria for determining whether a dam has a
129 potential for negligible damage in the event of a failure.

130 (d) The commissioner may audit any inspection report submitted
131 pursuant to this section by the owner of a dam or similar structure.
132 When conducting such audit, the commissioner may request, in
133 writing, any information the commissioner deems necessary to carry
134 out such audit, including additional information or field inspections. If
135 the commissioner determines that the inspection report is materially
136 inaccurate, incomplete or misleading, the commissioner may require
137 that another inspection be independently undertaken by a
138 disinterested registered professional engineer licensed in the state of
139 Connecticut. For purposes of this subsection, "disinterested" means
140 that such engineer (1) does not have any financial interest other than
141 the expectation of reasonable compensation for his or her services, (2)
142 did not engage in any activities associated with the development or
143 preparation of the inspection being audited, and (3) is not under the
144 same employ as the owner of the dam or similar structure or the
145 engineer who performed the inspection being audited. Such
146 independent inspection shall be performed at the expense of the owner
147 of the dam or similar structure. The commissioner shall adopt
148 regulations in accordance with the provisions of chapter 54
149 establishing the manner in which the owner of the dam or similar
150 structure shall receive notice and appeal the cost of an independent
151 inspection.

152 Sec. 5. (NEW) (*Effective October 1, 2012*) The owner of any high or
153 significant hazard dam or similar structure shall develop and
154 implement an emergency action plan. The emergency action plan shall

155 be updated every two years and copies shall be filed with the
156 Commissioner of Energy and Environmental Protection and the chief
157 executive officer of any municipality that would potentially be affected
158 in the event of an emergency. The Commissioner of Energy and
159 Environmental Protection shall adopt regulations, in accordance with
160 the provisions of chapter 54 of the general statutes, establishing the
161 content of such emergency action plans, including, but not limited to,
162 (1) criteria and standards for inundation studies and inundation zone
163 mapping; (2) procedures for monitoring the dam or structure during
164 periods of heavy rainfall and runoff, including personnel assignments
165 and features of the dam to be inspected at given intervals during such
166 periods; and (3) a formal notification system to alert appropriate local
167 officials who are responsible for the warning and evacuation of
168 residents in the inundation zone in the event of an emergency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	22a-401
Sec. 2	<i>October 1, 2012</i>	22a-403(b)
Sec. 3	<i>October 1, 2012</i>	22a-404
Sec. 4	<i>October 1, 2012</i>	22a-409
Sec. 5	<i>October 1, 2012</i>	New section

ENV *Joint Favorable Subst.*